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THE WHITE HOUSE
WASHINGTON

Attached are two papers giving both sides of the paper stamping issue:

1. One paper, by Mr. Acheson, is entitled, "The Problem of the Breaking Point on Access". It is an argument for maintaining existing access procedures, regardless of who performs these procedures.
2. The second paper, by Mr. Kohler, is entitled "The Problem of Berlin Surface Access". It is an argument for the "peel off" procedure, under which we would identify our military traffic to the East Germans, but refuse to let them stamp our papers.

These are briefing papers for the 5 p.m. meeting.

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THE PROBLEM OF BERLIN SURFACE ACCESS

July 25, 1961

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BASIC FACTORS

- 1) The Western Allies maintain that they have an unquestionable right to be in Berlin and to enjoy free access thereto, flowing from the unconditional surrender of Nazi Germany.
- 2) While recognizing the original basis of these rights, the Soviets assert that they are already obsolescent and will terminate fully on conclusion of a peace treaty with the so-called "GDR" by the USSR. Transit to Berlin by land, water, or air thereafter requires newly negotiated arrangements with the "Sovereign GDR."
- 3) War-time and post-war agreements and arrangements between the four principal Allied powers did not confer rights of access but merely established procedures for their exercise. A continuing dispute between the Western powers, who maintain these arrangements involve only identification of Allied military traffic, and the Soviets, who maintain they involve "control" of such traffic by the Soviet occupation forces, has never been resolved.
- 4) West German civilian traffic in persons (except refugees) and goods to and from Berlin is based upon arrangements between West and East German "technical" agencies and involve control by the East Germans. These arrangements were originally fostered by the four WWII Allies under their responsibility for Germany as a whole. At present a substantial traffic continues, sometimes uneasily, not only between West Germany and West Berlin but between West and East Germany, on the basis of a balance of interest between the FRG and the "GDR."
- 5) If German civilian traffic is blocked, all traffic theoretically becomes "military" traffic, since the Western Allies are responsible not only for the security but also for the general welfare of the population of occupied territories. This was dramatically demonstrated by the Allied airlift during the Berlin blockade in 1948. However, the principle was weakened by Allied inaction during GDR harassment of West German traffic between 1950 and 1958.
- 6) Against the Soviet thesis of GDR sovereignty after the conclusion of a "peace treaty" the Western Allies maintain (as stated in the US note of July 17, 1961) that:

"If anyone

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E.O. 11652, Sec. 1.6 (1) and 1.6 (2) or (E)

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"If anyone of the Four withdraws from these arrangements, then it is clearly the responsibility of the other Three to make such dispositions with respect to the exercise of their access rights as they deem appropriate."

7) It has been generally agreed, as phrased by Mr. Acheson, that "the issue over which the fight is made...Should be persistent physical interference with military or civilian traffic to and from Berlin, whether by East Germans or Soviets." The problem is how to arrive at that point, when it is clear that the other side will maneuver to prevent the development of any such clear-cut issue.

SOVIET/GDR OBJECTIVES:

1) Maximum initial assertion by the GDR and acceptance by the Western Allies of the concept of the "sovereignty" of the GDR and of its "control authority" over access routes to Berlin.

2) Gradual achievement of real control and erosion of Western "access rights" to facilitate eventual absorption of West Berlin by the GDR.

THE SETTING

Assuming that the threatened Soviet action is allowed to run its course, the one dramatic moment of crisis presently foreseeable will be the moment of East German officers replace Soviet officers at the check points and confront the first Allied vehicle. Hundreds of press representatives will be present and the eyes of the whole world will almost literally be on this encounter. Whichever side succeeds at that moment in effectively asserting its authority will have scored a potentially decisive round.

SOVIET/GDR TACTICS

1) It is of course possible that the East Germans would simply refuse passage to military traffic in the absence of a contractual arrangement negotiated by the Western Allies with the GDR. (This has already been said by Soviet and GDR spokesmen and might well be officially proclaimed in advance.)

2) It is also possible that the East Germans would accept the presently agreed "peel-off" identification procedure for Allied military traffic. (This procedure would have been proclaimed in advance under existing plans.)

3) It is more likely that the East Germans would seek to apply existing Soviet procedures, accompanied by a strenuous world-wide Communist-camp campaign to publicize (with pictures) the acquiescence of the Allies to East German "control authority" and the recognition thereby of GDR "sovereignty."

ALLIED ALTERNATIVES

1) Seek to forestall the arrival of the moment of crisis by tactics which would delay a showdown (e.g. negotiations with the Soviets and others)

or which would settle the access problem in advance of an unprepared confrontation. The former category of political action is dealt with elsewhere; with respect to the latter:

(a) The thesis that the Allies would accept the East Germans as "agents" of the USSR could not be successfully maintained either legally or psychologically in the face of Soviet and GDR denial of such relationship, which has already been indicated and would be reiterated.

(b) The three Allies could of course negotiate access arrangements with the GDR, as the Soviets demand, and at least for an initial period could probably get procedures less onerous and ambiguous than those presently in effect. The world would regard this as a major Soviet/East German victory and act accordingly. It would involve a considerable measure of recognition of the GDR and undermine the Western posture on self-determination. (While the British would accept this, the French would oppose, and it would be close to a breaking point with the FRG.)

(c) In order to avoid direct Allied negotiations with the GDR, it might be possible to extend the scope of the arrangements now governing civilian traffic by having the West and East Germans at the "technical" level agree on procedures governing all traffic to and from Berlin, including Allied military traffic. While such arrangements would seem to do violence to the theory of continued four-power responsibility, it could be rationalized on the assumption that both West and East Germans were acting as agents of the occupying powers. (The West Germans would probably turn down such a proposal, as they have other ideas involving increased dealings with the GDR; and since it would fall short of the measure of "authority" they seek, the East Germans might reject an approach along these lines, in any event. The British would probably favor. French reaction is hard to estimate.)

2) However, even if Allied plans contemplate forestalling the arrival of this "moment of crisis," contingency plans must be ready in case such efforts should fail.

(a) If the Allies stood by present planning, and the Soviets/East Germans rejected the procedure, the "moment of crisis" might be precipitated. If the Soviets/East Germans acquiesced, the West would have gained a psychological victory, would have won the unsettled "control" dispute, and would have made it difficult (though not impossible) for the GDR thereafter to erode or destroy Western access rights by means short of physical interference with traffic. (While the British have agreed to this procedure, they are clearly not happy with it and the U.S. has agreed to a review. It is not at all clear that the British would stand by the procedure--as stated in the attached, Mr. Acheson has grave doubts that they would--see attached. Absolute Allied agreement and unity would be essential for this course and this would have to be assured during the forthcoming tripartite consultations, if it is decided to confirm the present contingency planning. French and Germans will probably want to stand on the agreed procedure.)

(b) If the Allies decided to revise the contingency planning to allow the East Germans to execute the procedures presently followed by the

Soviets, the efforts of the other side to exploit "Allied acceptance of GDR control authority" would of course be mitigated to some extent by prior proclamation and publicizing of Allied intent. The GDR would inherit the Soviet side of the unsettled "control" dispute and could be expected gradually and cautiously to extend its control authority. (The British would like such arrangement, but the Germans and French might oppose.)

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BERLIN

THE PROBLEM OF THE BREAKING POINT ON ACCESS

If the Berlin crisis goes as far as a USSR-GDR Peace Treaty and a turn-over by the USSR to the GDR of the checkpoints on rail, road and barge routes to Berlin, the question will arise as to the moment at which to raise the issue which may lead to blockade of Berlin and, perhaps, to war.

Present agreed tripartite planning is to announce in advance of a demand by the GDR that a new agreement governing the modalities of access be negotiated with them, that not only will this not be done but that existing procedures must be altered. Under the new procedures a copy of what amounts to a bill of lading will be handed to East German officials at the checkpoint, but that they will not be permitted to follow existing practice of stamping on the copy retained by the shipper the date and hour of entering and exiting from a checkpoint. *A fortiori* they would not be permitted to exercise any further authority.

If the East Germans refuse this procedure the break occurs, and the blockade with all its consequences begins.

I differ from this view and, submit that while we should not yield to the GDR demand, directly or indirectly, that we negotiate a new agreement with them, we should announce that existing procedures have worked satisfactorily for years and that we do not propose to permit them to be altered in any respect whatsoever.

My reasons for taking this position are, first, that this position (of leaving well enough alone and not being the ones to demand a change in our favor) will appear reasonable and non-provocative, and, second, that our allies will move to this position in any event. To attach our prestige to a position from which we shall have to retreat is most unwise.

The British have only agreed to present contingency planning under great duress; in an emergency, they would almost certainly propose that the East Germans be allowed to perform the functions which the Soviets now discharge. There would probably be considerable European press and popular support for the British position; there would be a disinclination for seeming to make paper-stamping a casus belli, no matter how much we explained the underlying issue.

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The alliance would thus be divided over an essentially procedural question, at the very time when maximum allied unity was needed as a basis for possible armed action in defense of Berlin. The situation would be the more difficult since there might be some questioning in the U.S. press, public and Congress as to whether we had really chosen the most suitable issue on which to fight. There would also be grave difficulty in making our position plausible to the uncommitted countries.

All this would be apparent to the Soviets, and they would be encouraged to press ahead to exploit the Western disarray. In the face of Bloc pressures and allied disunity, it seems likely that the allies would eventually accept the same paper-stamping from the East Germans that they now accept from the Soviets. To avoid such a last minute change in our position under fire, it would be better to straighten out this issue beforehand.

Therefore, the Western powers should announce, when a peace treaty is concluded, that whoever mans the checkpoints may perform present procedures and no more. This would mean holding the same line against a variety of ostensibly minor changes in these functions which we have held for many years. The difference would be that it would be the East Germans, rather than the Soviets, who would be trying to make the changes. Allied unity could probably be more readily secured on defending this existing line than on trying to improve it at the time of a GDR take-over. And parity of treatment for the GDR would be easier for the USSR to accept as an outcome of the crisis, if they wanted a face-saving "out".

Dean Acheson

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